

**Hyde County Board of Commissioners**  
**AGENDA ITEM SUMMARY SHEET**

**Meeting Date:** August 5, 2013  
**Presenter:** Manager Bill Rich  
**Attachment:** Yes

**ITEM TITLE:** RESOLUTION OF OPPOSITION TO RECLASSIFYING  
NORTH CAROLINA COASTAL WATERS

**SUMMARY:** At its regularly scheduled meeting on July 1, 2013 the Hyde County Board of Commissioners was informed that the North Carolina Division of Marine Fisheries (NCDMF) has received a petition for rule making that requests NCDMF to make all Pamlico Sound waters a secondary nursery. The NCDMF's data does not support that designation but if passed it would effectively make it illegal to shrimp trawl any inside NC waters.

**"Resolution In Opposition To Reclassifying North Carolina Coastal Waters As Secondary Nursery Areas"** is attached for Board approval.

**RECOMMEND:** Discussion and approval.

Motion Made By: ☐ Barry Swindell  
☐ Dick Tunnell  
☐ Anson Byrd  
☐ John Fletcher  
☐ Earl Pugh, Jr.

Motion Seconded By: ☐ Barry Swindell  
☐ Dick Tunnell  
☐ Anson Byrd  
☐ John Fletcher  
☐ Earl Pugh, Jr.

Vote: ☐ Barry Swindell  
☐ Dick Tunnell  
☐ Anson Byrd  
☐ John Fletcher  
☐ Earl Pugh, Jr.

# COUNTY OF HYDE

## Board of Commissioners

Barry Swindell, Chair  
Dick Tunnell, Vice-chair  
Anson Byrd  
John Fletcher  
Earl Pugh, Jr.

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Bill Rich  
County Manager

Fred Holscher  
County Attorney

Lois Stotesberry, CMC, NCCCC  
Clerk to the Board



## **Resolution In Opposition To Reclassifying North Carolina Coastal Waters As Secondary Nursery Areas**

**WHEREAS**, Hyde County strongly endorses support of resolution against rulemaking that proposes reclassifying internal coastal waters as secondary nursery areas.

**WHEREAS**, shrimp trawling provides commercial fishing families income during summer and early fall when fishermen need it most. Commercial shrimp harvesting plays a vital role in county and statewide economy. North Carolina needs every job to keep unemployment down. Loss of jobs will be destructive to Hyde County as well as other coastal communities.

**NOW, THEREFORE, BE IT RESOLVED** that rulemaking reclassifying most internal coastal waters as secondary nursery areas is not needed to improve fisheries management. The proposed reclassification will have a devastating impact on commercial fishing families income; eliminate availability of North Carolina harvested shrimp, a public resource, to North Carolina residents, tourists, restaurants and seafood retail.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that on behalf of the citizens of this county, the Hyde County Board of Commissioners strongly urge the Marine Fisheries Commission to reject the proposed rule. Copies of this resolution in opposition to rule making that proposes reclassifying most internal coastal waters as secondary nursery areas will be forwarded to the Honorable Pat McCrory, NC Governor, Nancy D. Fish, NCDMF Commission Liaison and the Hyde County Legislative Delegation to the North Carolina General Assembly.

Adopted this the 5th day of August, 2013, in Hyde County, North Carolina.

ATTEST: \_\_\_\_\_  
Lois Stotesberry, Clerk to the Board

\_\_\_\_\_  
Barry Swindell, Chairman

## PETITIONING FOR RULEMAKING

**To:** Chairman of the N.C. Marine Fisheries Commission  
P.O. Box 769  
3441 Arendell Street  
Morehead City, NC 28557

**From:** Timothy W. Hergenrader

**Date:** June 19, 2013

**Re:** Petition for Rulemaking Under Rule 15A NCAC 03P .0301

In accordance with the specific requirements of 15A NCAC 03P .0301, the undersigned presents this Petition for Rulemaking to the North Carolina Marine Fisheries Commission. Each of the 8 requirements of subsection (b) of that rule is set out below in turn, followed by the relevant information required by that subsection:

### 1. Text of the proposed rule(s).

By the addition of subsection (11) as set out below, 15NCAC 03R .0104 is modified to read as follows:

#### **" 15A NCAC 03R .0104 PERMANENT SECONDARY NURSERY AREAS**

The permanent secondary nursery areas referenced in 15A NCAC 03N .0105(a) are delineated in the following coastal water areas:

- (1) Roanoke Sound:  
Inner Shallowbag Bay - west of a line beginning on the northeast shore at a point 35° 54.6729' N - 75° 39.8099' W; running southerly to the southeast shore to a point 35° 54.1722' N - 75° 39.6806' W;
- (2) In the Pamlico Long Sound Area:
  - (a) Long Shoal River - north of a line beginning at the 5th Avenue Canal at a point 35° 35.2120' N - 75° 53.2232' W; running easterly to the east shore on Pains Point to a point 35° 35.0666' N - 75° 51.2000' W;
  - (b) Pains Bay - east of a line beginning on Pains Point at a point 35° 35.0666' N - 75° 51.2000' W; running southerly to Rawls Island to a point 35° 34.4666' N - 75° 50.9666' W; running easterly to the east shore to a point 35° 34.2309' N - 75° 50.2695' W;
  - (c) Wysocking Bay - northwest of a line beginning at Benson Point at a point 35° 22.9684' N - 76° 03.7129' W; running northeasterly to Long Point to a point 35° 24.6895' N - 76° 01.3155' W;
  - (d) Juniper Bay-Cunning Harbor - north of a line beginning on the west shore of Juniper Bay at a point 35° 20.6217' N - 76° 15.5447' W; running easterly to a point 35° 20.4372' N - 76° 13.2697' W; running easterly to the east shore of Cunning Harbor to a point 35° 20.3413' N - 76° 12.3378' W;
  - (e) Swanquarter Bay - north of a line beginning at The Narrows at a point 35° 20.9500' N - 76° 20.6409' W; running easterly to the east shore to a point 35° 21.5959' N - 76° 18.3580' W;
  - (f) Deep Cove - The Narrows - north and east of a line beginning on the west shore at a point 35° 20.9790' N - 76° 23.8577' W; running southeasterly to Swanquarter Island to a point 35° 20.5321' N - 76° 22.7869' W; and west of a line at The Narrows beginning on the north shore to a point 35° 20.9500' N - 76° 20.6409' W; running southerly to Swanquarter Island to a point 35° 20.7025' N - 76° 20.5620' W;
  - (g) Rose Bay - north of a line beginning on Long Point at a point 35° 23.3404' N - 76° 26.2491' W; running southeasterly to Drum Point to a point 35° 22.4891' N - 76° 25.2012' W;
  - (h) Spencer Bay - northwest of a line beginning on Roos Point at a point 35° 22.3866' N - 76° 27.9225' W; running northeasterly to Long Point to a point 35° 23.3404' N - 76° 26.2491' W;
  - (i) Abel Bay - northeast of a line beginning on the west shore at a point 35° 23.6463' N - 76° 31.0003' W; running southeasterly to the east shore to a point 35° 22.9353' N - 76° 29.7215' W;

- (5) Virginia Creek - all waters of the natural channel northwest of the primary nursery area line;
- (6) Old Topsail Creek - all waters of the dredged channel northwest of the primary nursery area line;
- (7) Mill Creek - all waters west of a line beginning on the north shore at a point 34° 20.6420' N - 77° 42.1220' W; running southwesterly to the south shore to a point 34° 20.3360' N - 77° 42.2400' W;
- (8) Pages Creek - all waters west of a line beginning on the north shore at a point 34° 16.1610' N - 77° 45.9930' W; running southwesterly to the south shore to a point 34° 15.9430' N - 77° 46.1670' W;
- (9) Bradley Creek - all waters west of a line beginning on the north shore at a point 34° 12.7030' N - 77° 49.1230' W; running southerly near the dredged channel to a point 34° 12.4130' N - 77° 49.2110' W; and
- (10) Davis Creek - all waters east of a line beginning on Horse Island at a point 33° 55.0160' N - 78° 12.7380' W; running southerly to Oak Island to a point 33° 54.9190' N - 78° 12.7170' W; continuing upstream to the primary nursery line and Davis Canal, all waters southeast of a line beginning on Pinner Point at a point 33° 55.2930' N - 78° 11.6390' W; running southwesterly across the mouth of Davis Canal to the spoil island at the southwest intersection of the IWW and Davis Canal to a point 33° 55.2690' N - 78° 11.6550' W.
- (11) In addition to the specifically designated "Permanent Secondary Nursery Areas" listed above in subsections (1) through (10) of this rule, all waters westward of the COLREGS demarcation lines for North Carolina coastal waters that are not designated as primary nursery areas or special secondary nursery areas are designated as permanent secondary nursery areas, as referenced in 15A NCAC 03N .0101, 15 NCAC 03N. 0103, and 15 NCAC 03N.0105."

## 2. Statutory authority for the agency to promulgate the rule(s).

The statutory authority necessary to promulgate the rule proposed in this petition exists in N.C. Gen. Stat. § 143B-289.52.

## 3. Reasons a proposed rule(s) needs to be adopted or an existing rule(s) needs to be changed.

Based on the documents prepared by the N.C. Division of Marine Fisheries (NCDMF) and listed as entries # 2 and 3 in the "Literature Cited" appendix to this Petition for Rulemaking, as well as on additional studies, including the P195 juvenile index survey assessment map listed as entry #4 in the "Literature Cited" appendix to this Petition, an examination of the frequency of juveniles for many finfish species found in the deeper waters of the Pamlico Sound and its tributaries, which are currently not classified as nurseries, clearly shows that for many species, juvenile abundance is as high, or higher, in these waters than it is in current designated nursery areas. For example, Petitioner notes that the NCDMF only surveys for juvenile weakfish in the deeper waters of the sound (*see entry #4 in the "Literature Cited" section, below*) and not in areas currently classified as primary or secondary nursery areas. In addition, in their thorough nursery area survey, the NCDMF identified the weakfish nursery as being in deeper channels and the more open waters of the Pamlico Sound (*see entry #3 in the "Literature Cited" section, below*), where trawling is currently permitted, and NOT in currently designated primary or secondary nursery areas within the state. This is especially significant because weakfish represent an economically important species that has been overfished and depleted to the point that its stock has collapsed. The NCDMF nursery survey also shows other economically important fish species, such as croaker and spot, use the deeper waters of the Pamlico Sound as a nursery area as that term is functionally anticipated by 15ANCAC 03N .0101 *et seq.* (*see entry #3 in the "Literature Cited" section, below*). These findings are corroborated by the fact that sampling clearly shows that the three most abundant finfish occurring in North Carolina inshore shrimp trawl bycatch are the croaker, spot, and weakfish (*see entry #2 in the "Literature Cited" section, below*).

The available evidence strongly supports the classification of North Carolina's deeper inshore waters as "nursery area" as that term is defined in 15A NCAC 031 .0101; thereby, logic dictates that current, permanent secondary nursery area designations need to be expanded to all inshore waters in order both to effectuate the purpose of 15A NCAC 03N .0101 *et seq.* and to be consistent in applying those protections legally afforded to permanent secondary nursery areas to all internal coastal waters that function as secondary nursery areas, whether or not they are currently so designated.

waters to the ocean. At that point, it is possible that shrimpers would have a larger harvest due to the fact that the shrimp will be larger in size. With regards to shrimping, using South Carolina as a model, Petitioner believes that there will be no overall, long-term cost to persons affected by changing this rule and that, instead, its adoption could lead to a net gain in shrimp harvest in North Carolina. The only other commercial trawling that occurs in North Carolina inshore waters is crab trawling and this would be eliminated by adoption of this rule. According to the last blue crab fisheries management plan prepared by the NCDMF, crab trawling accounts for 3.4% of the total blue crab harvest in North Carolina. The value of the blue crab harvest in North Carolina in 2012 was approximately \$22.8 million and 3.4% of this total is approximately \$775,000, which is a good faith estimate of the cost to persons with regard to crab trawling if this rule is adopted. Petitioner is neither aware of nor believes that there are current fishing practices other than shrimp and crab trawling that would be affected by adoption of the proposed rules revision.

**7. Description of those most likely to be affected by the proposed rule(s).**

Those to be affected by adoption of this proposed rule include individuals who own or work on a shrimp trawler or a crab trawler that currently operates inside of the COLREGS demarcation lines for North Carolina. Persons currently using gear other than shrimp trawls or crab trawls would not be affected by this rule change, per rule 15A NCAC 03N .0105, which states that trawl nets are the only gear prohibited in secondary nursery areas. In addition, shrimp harvesting for recreational and personal consumption should increase as a result of adoption of this rule, since individuals using cast nets, shrimp pounds, *etc.*, would not be competing with the shrimp trawlers which now tend to work small areas very intensely during the first few days of a season.

**8. Your name and address.**

Timothy W. Hergenrader  
106 Black Horse Run S  
New Bern, NC 28560

Please submit any questions in writing to the address above or to my email: [timraderart@yahoo.com](mailto:timraderart@yahoo.com)

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**APPENDIX 1. Literature Cited**

1. North Carolina Administrative Rule Book.
2. **Brown, K.** 2010. Characterization of the commercial shrimp trawl fishery in Pamlico Sound and its tributaries, NC. Completion report for NOAA award # NA05NMF4741003. North Carolina Division of Marine Fisheries, Morehead City, NC.
3. **Purvis, C.** 1976. Nursery Area Survey of Northern Pamlico Sound and Tributaries. Completion Report For Project Number 2-230-P, N.C. Division of Marine Fisheries.
4. Program grid 195 for the NCDMF deep water juvenile abundance index survey. Source – NCDMF personal communication.
5. National Marine Fisheries Service Website, Commercial Landing Statistics.  
<http://www.st.nmfs.noaa.gov/commercial-fisheries/commercial-landings/annual-landings/index>

**Hyde County Board of Commissioners**  
**AGENDA ITEM SUMMARY SHEET**

**Meeting Date:** August 5, 2013  
**Presenter:** Manager Bill Rich  
**Attachment:** Yes

**ITEM TITLE:** RESOLUTION IN OPPOSITION TO THE MANIPULATION OF  
THE MATTAMUSKEET LAKE WATER LEVEL BY THE US FISH  
& WILDLIFE SERVICE

**SUMMARY:** It has been brought to the attention of some Board members and the  
County Manager that the current water level being maintained at Lake  
Mattamuskeet may be causing significant degradation of wetlands and  
aquatic grass beds affecting wildfowl habitats and causing displacement of  
numerous wildfowl species including Osprey and Bald Eagle.

A resolution is attached for Board consideration.

**RECOMMEND:** Discussion and approval.

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Motion Made By: ☐ Barry Swindell  
☐ Dick Tunnell  
☐ Anson Byrd  
☐ John Fletcher  
☐ Earl Pugh, Jr.

Motion Seconded By: ☐ Barry Swindell  
☐ Dick Tunnell  
☐ Anson Byrd  
☐ John Fletcher  
☐ Earl Pugh, Jr.

Vote: ☐ Barry Swindell  
☐ Dick Tunnell  
☐ Anson Byrd  
☐ John Fletcher  
☐ Earl Pugh, Jr.

# COUNTY OF HYDE

## Board of Commissioners

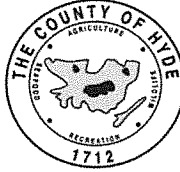
Barry Swindell, Chair  
Dick Tunnell, Vice-chair  
Anson Byrd  
John Fletcher  
Earl Pugh, Jr.

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SWAN QUARTER, NORTH CAROLINA  
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Bill Rich  
County Manager

Fred Holscher  
County Attorney

Lois Stotesberry, CMC, NCCCC  
Clerk to the Board



## **Resolution Expressing Concern to US Fish & Wildlife Service (FWS) Over Management of The Mattamuskeet Lake Water Level**

**WHEREAS**, the Hyde County Board of Commissioners expresses deep concerns over U.S. Fish and Wildlife Service (FWS) current management of the Mattamuskeet Lake water level; and,

**WHEREAS**, the Hyde County Board of Commissioners wishes to inform the FWS and our Congressional delegation that this management regime is counterproductive to the freshwater fishery in Mattamuskeet Lake, the breeding and wintering waterfowl resource in Hyde County, other wildlife resources in Hyde County, and counter to the wishes of Hyde County residents and their economy:

- 1) The canals leading to the outflow gates on Mattamuskeet National Wildlife Refuge (Refuge) have recently been cleaned out. This action has resulted in abnormally low lake levels, drainage of wetlands throughout the Refuge, and additional negative impacts including destruction of one of the best freshwater fisheries in the southeastern United States.
- 2) Saltwater intrusion into the brackish/ freshwater habitat of the Refuge, thereby increasing the potential for saltwater intrusion into privately owned farmland surrounding the Refuge.
- 3) Degradation of the submerged aquatic vegetation that has made Mattamuskeet Lake famous for its waterfowl abundance.
- 4) Encouragement of the expansion of the invasive/exotic *phragmites australis australis* at the expense of endemic wetland sedges and rushes.
- 5) Displacement of numerous wildlife species to include Osprey and Bald Eagle.
- 6) Economic decline impacting the citizens of Hyde County and the State of North Carolina.
- 7) Adverse impacts to property rights of landowners around the Refuge who own Lake bottom.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the Hyde County Board of Commissioners support the installation of flashboard risers, already owned by the Refuge being installed to maintain reasonable Lake water levels at sea level.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that copy of this resolution be forwarded to the Honorable Pat McCrory, NC Governor, the Hyde County Legislative Delegation to the North Carolina General Assembly, and the US Fish and Wildlife Service.

Adopted this the 5<sup>th</sup> day of August, 2013, in Hyde County, North Carolina.

ATTEST: \_\_\_\_\_

Lois Stotesberry, Clerk to the Board

\_\_\_\_\_  
Barry Swindell, Chairman

**Bill Rich**

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**From:** Hester's Mattamuskeet <gwteal@embarqmail.com>  
**Sent:** Wednesday, July 31, 2013 9:08 PM  
**To:** lloyd goode  
**Cc:** Vance Forbes; Rusty Carter; Jim Reavis; Jim Reavis;; Kyle Richards;; rwh; Brad Fields;; Greg Turnage; Paxton, III, Coalter; Seth Thompson; Wes Carter; and Norman Perry, Jaquelin; Dew Forbes; Dawson Rascoe; rrr5; rktill; Rhett Spencer; Victor Weston; Tommy Carroll; HARRY GAUSS; Horace Beasley; Warner Perry; brich@hydecourtync.gov; middletownfarms@embarqmail.com; ansonbyrd@gmail.com  
**Subject:** Re: DU Hopefully Will See

Lloyd, I do not know Craig LeSchack but see he is toeing the Company (F&WS) line. His assertions are without foundation and essentially direct quotes from some within the F&WS. I suggest he see the actual documents I sent to you.

**Re: Refuge Crops for Waterfowl:** There are dozens of alternate crops that do not have GM, for example grain sorghum, and, local farmers are strongly vying for land at very high cash prices. Dismissing 60 acres of waterfowl refuge crops is counter to what DU supports, particularly when viewing the DU magazine that trumpets acerages for waterfowl far, far smaller. Finally, I would strongly suggest that the Lake water level and rainfall amounts over the last 30 years be carefully studied. Again, Former Refuge Manager Bruce Freske, in documents I obtained clearly has defined the Lake level problems and prepared a well documented and thought out policy.

The loss of the wild celery beds, as mentioned by Mr. Freske, should in itself deeply alarm DU. I will remind you that these aquatic beds not only support waterfowl that annually winter at Mattamuskeet, but also thousands of divers from Core, Pamlico, Albemarle, Roanoke and Croatan Sound that fly into the Lake early every winter morning by the thousands.

Mattamuskeet Refuge has total control over the Lake level. This first myth needs to be addressed. The Refuge can open or close the gates at their personal whim. Further the channelization of the four outflow canals has acted like a "V-ditch" in a small pond. (again, reference Mr. Freskes' research).

The fresh-water fishery has been destroyed. The phragmites beds accelerate their growth every year and the local financial and social fiber of the County erodes every year. When will the waterfowl ecosystem collapse? For F&WS personnel to say they have nothing to do with it is ludicrous.

I, obviously know how closely bound DU and the F&WS are. However, I am hopeful that DU will refrain from standing by while the Mattamuskeet resources are diminished. Again, Mr. LeShack should carefully review the actual F&WS documents and take the time to visit people throughout Hyde County that can easily tell the truth.

Sincerely,  
Bob Hester

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**From:** "lloyd goode" <lloydogoode@gmail.com>  
**To:** "bob Hester" <gwteal@embarqmail.com>



## Bill Rich

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**From:** lloyd goode <lloydogoode@gmail.com>  
**Sent:** Wednesday, July 31, 2013 7:02 PM  
**To:** Hester, bob  
**Cc:** Forbes, Vance; Carter, Rusty; Reavis, Jim; Jim Reavis,; Kyle Richards,; rwh; Brad Fields,; Turnage, Greg; Paxton, III, Coalter; Thompson, Seth; Carter, Wes; and Norman Perry, Jaquelin; Forbes, Dew; Rascoe, Dawson; rrr5; rktill; Spencer, Rhett; Weston, Victor; Carroll, Tommy; GAUSS, HARRY; Beasley, Horace; Perry, Warner; brich@hydecourtynyc.gov; middletownfarms@embarqmail.com; ansonbyrd@gmail.com  
**Subject:** Fwd: DU Hopefully Will See

Bob as you can see I got this two days ago. I wanted to get Don Manley's feedback but he is at a meeting in Memphis. I know this is their opinion of the situation but at least they know we have eyes on the ground in Hyde County.

I am personally up to my eyeballs now and I am leaving for Memphis tomorrow.

----- Forwarded message -----

**From:** **Craig LeSchack** <cleschack@ducks.org>  
**Date:** Mon, Jul 29, 2013 at 5:00 PM  
**Subject:** RE: DU Hopefully Will See  
**To:** lloyd goode <lloydogoode@gmail.com>  
**Cc:** Don Manley <dmanley@ducks.org>

Lloyd,

I called the refuge and spoke with Jerry Fringeli, who has been the refuge biologist for the past 10 years or so. Since 1995, DU has spent a total of ~\$250,000 of its own funds on the refuge and another \$2.7M in partner funds (>10:1 match - pretty good leverage). The vast majority of our funds were spent between 1995 and 2006, with only \$6,300 in DU funds being spent since then (2011). We are currently working on a new project to replace two of the main water control structures for the lake (Lake Landing Canal and Outfall Canal). This work is being totally funded by the U.S. Fish and Wildlife Service and no DU funds are being expended on the project. As you know, Lake Mattamuskeet is an incredibly important refuge for many species of waterfowl, and in particular, to tundra swans; however, the past few years have been dry and thus, the lake levels have been low. Although this has created ample habitat for shorebirds, the refuges' main mission is still to provide habitat for waterfowl.

As for as the farming issue, the refuge only planted 120 acres in total (60 acres soybean and 60 acres of corn) and that was historically done for Canada geese. Over the past few years, the U.S. Fish and Wildlife Service was sued for allowing the use of genetically-modified (GM) crops on the refuges and they are no longer allowed to plant GM crops. Coupled with the fact that Mattamuskeet has a hard time finding a farmer for such small acreage (and now having to plant non-GM crops), the refuge staff decided to stop agriculture on the refuge. Given that the farmer used to harvest all the soybeans and leave only the corn (i.e., 60 acres), the impact on waterfowl is minimal at best. In addition, the refuge still manages the 11 impoundments that border the lake for waterfowl and most of them have recently been upgraded by DU with new infrastructure (pumps, water control structures, etc.) to allow refuge staff to better manage for waterfowl. So I think the assertion that Mattamuskeet is being managed for shorebirds and not waterfowl is false. Unfortunately, it may be perceived that way since the refuge has little control over water levels when there is a drought and habitat conditions may favor shorebirds at certain times of the year. However, waterfowl still benefit from the lake and surrounding impoundments. Let me know if you have any additional questions or if I need to speak with Bob.

Regards,

Craig

*Craig R. LeSchack*

*Director, Conservation Programs - Southeast*

*Ducks Unlimited*

*3294 Ashley Phosphate Rd., Ste 2A*

*North Charleston, SC 29418*

*(843) 745-9110*

*cleschack@ducks.org*



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**From:** lloyd goode [mailto:lloydogoode@gmail.com]  
**Sent:** Sunday, July 28, 2013 4:39 PM  
**To:** Craig LeSchack  
**Cc:** Don Manley  
**Subject:** Fwd: DU Hopefully Will See

Craig,

Can you check into this.

----- Forwarded message -----

**From:** Hester's Mattamuskeet <gwteal@embarqmail.com>  
**Date:** Sun, Jul 28, 2013 at 4:12 PM  
**Subject:** DU Hopefully Will See  
**To:** lloyd goode <lloydogoode@gmail.com>  
**Cc:** "Forbes, Vance" <vforbes@premiertransportation.com>, "Carter, Rusty" <rustyc@atlanticpkg.com>, "Reavis, Jim" <jim.reavis@envivabiomass.com>, "Jim Reavis," <jkreavis@charter.net>, "Kyle Richards," <krichards@biggsconstructioncompany.com>, rwh <rwh\_jr118@yahoo.com>, "Brad Fields," <bradf@atlanticpkg.com>, "Turnage, Greg" <gturnage@cocentral.com>, "Paxton, III, Coalter" <cp3@paxtonwarehouse.com>, "Thompson, Seth" <setht@wellonsconstruction.com>, "Carter, Wes" <wesc@atlanticpkg.com>, "and Norman Perry, Jaquelin" <nfpjip@hotmail.com>, "Forbes, Dew" <forbesd@jarrettbav.com>, "Rascoe, Dawson" <drascoe@hamptonfarms.com>, rrr5 <rrr5@aol.com>, rktill <rktill@aol.com>, "Spencer, Rhett" <BigKahunaSC@aol.com>, "Weston, Victor" <victor@westonent.com>, "Carroll, Tommy" <Tommy@carrollenterprises.net>, "GAUSS, HARRY" <HARRYGAUSS@cocentral.com>, "Beasley, Horace" <hpb1@mchsi.com>, "Perry, Warner" <warner.perry@gmail.com>, brich@hydecourtnc.gov, middletownfarms@embarqmail.com, ansonbyrd@gmail.com

Lloyd,

**"Singleness of Purpose". That was DU's slogan for many years. You have seen the emails re: Mattamuskeet Lake. How is it possible that DU continues to expend dollars on this Refuge when it has been made clear, shorebirds, not waterfowl are what they have been and are managing for? Two years ago, the Refuge ended use of the agricultural area of the Refuge to support migratory waterfowl (a waterfowl support effort since the inception of the Refuge) and now manages that area for shorebirds. With all due respect, I believe it is time that the feel good relationship between the Refuge and DU be discussed. I sincerely do not believe that NC waterfowlers will be inspired when they see what is happening.**

**Bob**

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Lloyd Goode  
2816 Wayland Dr  
Raleigh, NC 27608  
H/O 919-781-1919  
M 919-349-3443

**Bill Rich**

**From:** Hester's Mattamuskeet <gwteal@embarqmail.com>  
**Sent:** Wednesday, July 31, 2013 4:26 PM  
**To:** middletownfarms@embarqmail.com; brich@hydecourtync.gov; ansonbyrd@gmail.com  
**Subject:** Factual Verification of Proposed Hyde Co. Resolution

Gentlemen:

Below please find five (5) documents. The last document is the resolution I drew up for consideration by the Hyde County Commission. The previous four documents are actual Mattamuskeet Refuge governmental documents I obtained. I have taken the liberty to outline in RED some of the information from the government documents that underline the eight (8) points I enumerated in the resolution. (1) That, in fact, channelization ("clean-out") of the outflow canals to the gates did occur. (2) That, in fact, the low Lake level has been destructive to the fish habitat and the ability to place a small fishing boat on the Lake. (3) That, in fact, the low Lake level was and is destroying the aquatic grass beds that support our waterfowl resource. (4) That, in fact, these low water conditions have deleterious effects on the financial and social well being of the citizens of Hyde County. (5) That, in fact, the drawdown is for the benefit of "shorebirds" and to the detriment of waterfowl and the fishery, although, Mattamuskeet from its inception has been for waterfowl based environments. (6) That, in fact, Osprey, Eagles, and wading birds have suffered through the loss of the fishery resource. Further, the four government documents specify the loss of Lake water level as well as bringing out other numerous negative impacts. Finally, I will reiterate that the Refuge agricultural lands, farmed for the benefit of migratory waterfowl since the Refuges' inception have now been closed to any use other than shorebird management.

It is difficult for me, or anyone, to fully appreciate the host of great losses the County and its people will suffer through, or, to enumerate each and every environmental, financial, social, and governmental loss. Suffice it to say that the loss of the Lake environment will be deeply unfortunate for generations of citizens and outdoor oriented people.

I regret taking so much of your time on this issue. However, I have done so attempting to have each of you have a more complete understanding of the problem.

Sincerely,  
Bob Hester

**UNITED STATES DEPARTMENT OF THE INTERIOR**  
U.S. FISH AND WILDLIFE SERVICE  
MATTAMUSKEET-SWANQUARTER-CEDAR ISLAND  
NATIONAL WILDLIFE REFUGES  
38 MATTAMUSKEET ROAD  
SWAN QUARTER, NORTH CAROLINA 27885

Ph: 252-926-4021

June 2, 2009

**NEWS RELEASE for Immediate Distribution**

**Contact:** Bruce Freske, Refuge Manager

**Proposal to Change Water Management at Lake Mattamuskeet**

Low lake levels, which have persisted for most of the past three years, have prompted staff at Mattamuskeet National Wildlife Refuge to propose a new strategy for managing water levels in the lake. This strategy would involve the placement of stop-logs in the water control structures of two outlet canals on the east side of the lake, Waupoppin and Lake Landing Canals, to prevent wind tides from driving water out of the lake. The management action would only take place during low water periods and would not affect the two other lake drainage canals, Rose Bay and Outfall Canals.

Fishermen and adjacent duck club managers have been the most concerned with the low lake levels, stated Refuge Manager Bruce Freske. The primary concerns of fishermen are their inability to get boats on the lake, the periodic fish kills (localized and small thus far), and the loss of bass spawning beds, all due to low water levels. The primary concern of adjacent duck club managers is their inability to draw water from the lake to flood impoundments in the fall. In addition, some private hunting blinds located along the north shore of the lake have at times been unhuntable due to a lack of water in front of them.

Freske stated that he believes the fishermen and duck hunter concerns are valid and that the low lake levels are negatively impacting them. The low lake levels have also caused some of the refuge waterfowl hunts to be cancelled during times when the refuge blinds did not have enough water in front of them. In addition, the low levels have caused an extensive loss of wild celery ("grass") beds which are an important waterfowl food for tundra swan and American wigeon. However, the exposed mud flats have created excellent habitat for shorebirds and allowed moist soil plants like wild millet and nutsedge, important waterfowl foods, to flourish along the lakeshore so there are some benefits to the low water.

Currently, the lake is approximately 1 foot below sea level. In an "average" year the lake is close to sea level during the summer and about ½ foot above sea level during the winter. The primary reason for the current low lake level is simply a lack of rainfall. However, other factors are also influencing the lake level to varying degrees including wind tides, evaporation, and regional groundwater level.

Wind tides have a significant effect on Lake Mattamuskeet due to the large size and shallow depth of the lake. During a strong wind event it is not uncommon to have a difference in the lake level of ½' to 1 ½' between the east and west sides of the lake, stated Freske. The lake has four outlet canals that drain into Pamlico Sound. Each of these canals is fitted with a set of tide gates to prevent saltwater from entering the lake. As a result, when wind tides push water out of the lake the water cannot return to the lake after the wind subsides. This often causes the lake to actually fall below sea level during dry periods.

The refuge does have the capability to lessen the amount of water lost due to wind tides as each of the four outlet canals has a water control structure on it with a series of openings fitted with tide gates as well as slots for stop-logs. Most of the wind tide water loss is believed to occur in Waupoppin and Lake Landing Canals as these canals are on the east side of the lake, which generally has higher water levels due to prevailing westerly winds. If aluminum stop-logs (which are light and easy to install and remove) were placed in the structure openings of Waupoppin and Lake Landing Canals, significant wind tide water loss could likely be prevented. There are also two openings at both Waupoppin and Lake Landing Canals that have stop-logs in them which are fitted with narrow openings (weirs) that can be opened to allow passage of fish and crabs. These weirs could be opened to allow fish passage when the other openings have stop-logs in them.

Management of lake levels is a very sensitive issue at Lake Mattamuskeet. "During past wet years, some home owners and farmers adjacent to the refuge have had problems with high water levels and do not want any management actions to negatively impact them. As a result, the proposed management action would be very conservative", stated Freske. The primary management action would be to place stop-logs in Waupoppin and Lake Landing Canal water control structures. The other two outlet canal structures at Outfall and Rose Bay Canals would not have stop-logs placed in them. Stop-logs would only be installed when the lake level is at sea level but would be placed six inches higher than the lake level to stop most wind tides from going over the top of the boards. Once the lake reaches a level of 4 inches above sea level all of the stop logs would be removed and would not be reinstalled until the lake once again reaches sea level.

Even if the above management action is undertaken, it is likely that lake levels will still fall below sea level during extreme drought, however the rate of falling lake levels and the duration of low levels should be lessened. Also, as no stop-logs will be placed in the gates at Rose Bay and Outfall Canals, the lake will not rise above sea level unless significant rainfall is received.

Your comments and questions regarding the proposed lake management action are encouraged. Refuge Manager Bruce Freske may be contacted at Mattamuskeet National Wildlife Refuge, 38 Mattamuskeet Road, Swan Quarter, NC 27885, by email at: [bruce\\_freske@fws.gov](mailto:bruce_freske@fws.gov), or by phone at: 252-926-4021. Comments will be accepted until August 3, 2009.

## **UNITED STATES DEPARTMENT OF THE INTERIOR**

**U.S. FISH AND WILDLIFE SERVICE  
MATTAMUSKEET-SWANQUARTER-CEDAR ISLAND  
NATIONAL WILDLIFE REFUGES  
38 MATTAMUSKEET ROAD  
SWAN QUARTER, NORTH CAROLINA 27885**

Ph: 252-926-4021

Fax: 252-926-1743

email: [Bruce\\_Freske@fws.gov](mailto:Bruce_Freske@fws.gov)

August 27, 2009

Dear Sir/Madame:

We have completed the 60 day comment period and review regarding the Lake Mattamuskeet Water Management Plan proposal.

The proposal and request for comments were submitted to 76 people and/or organizations and news releases were sent to 6 regional newspapers. All of the Hyde County Commissioners were contacted as well as the Hyde County Soil and Water Conservation District and the Hyde County Chamber of Commerce. Of the 76 requests for comments sent out 45 were to residents of Hyde County, of which 7 own homes adjacent to Mattamuskeet Refuge and 21 have farmland and/or impoundments next to the refuge. Basically everyone who has ever expressed a concern to me about high or low water levels received a formal request for comments. After completion of the comment period we received a total of 19 written comments and 6 oral comments. A total of 20 comments stated that the proposed plan should be implemented, 4 did not state a position, and 1 indicated that they were against the proposal.

We plan to move forward with implementation of our plan as originally proposed. This will entail the purchase of aluminum stop-logs to be installed in Waupoppin and Lake Landing Canal Water Control Structures. We have ordered the stop-logs and anticipate receiving them in mid September. We will also install water level gauges at both of the water control structures such that "0" is set at sea level. This will allow both staff as well as the public to easily monitor lake water levels. If the lake is still below sea level after we receive the stop-logs (the lake is currently 1' below sea level), we will install the stop-logs as indicated in our management plan.

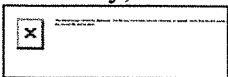
Some concern was expressed regarding excessively high water levels, as may occur after the passing of a tropical system. Of the 26 gate openings on the 4 outlet canal structures, 6 have wood stop-logs (with weirs) and one has a metal plate in the opening. Thus, we can remove all of the stop-logs and the metal plate to quickly increase drainage capability if it is needed to address flooding concerns. This management capability has never been utilized since the wood stop-logs were installed many years ago. Simply by implementing this action, drainage capability can be increased by an additional 37%.

We have also cleaned out three of the four lake drainage canals and will clean out the remaining canal (Rose Bay Canal) within the next several months. In addition, we now own a long-reach excavator so future cleanouts can be accomplished in a much more timely manner. As a result, I believe our ability to remove excess water from the lake is much better than it has been in the past.

Close monitoring of lake levels will be an important part of the management plan and we remain open to amending the plan, after public review and comment, if it is believed necessary. All aspects of management including a written copy of our water management plan and clearly visible water level gauges at the Waupoppin and Lake Landing water control structures will allow the public to easily review and monitor our management efforts.

We believe that the water management proposal we have outlined fairly balances the economic interests of farmers as well as motels owners, restaurants, and hunt clubs and will improve habitat for waterfowl, fish, and wildlife which feed on fish including osprey and wading birds. Thank you for your help in assisting us with the development of this new plan.

Sincerely,



Bruce Freske  
Refuge Manager



Lake Water levels remained low throughout 2008, however, waterfowl hunting was able to occur, though barely. Little winter precipitation placed the 2009 March lake water levels even lower than they were in the springs of 2007 and 2008.

**On March 23rd**, on a day with 15-20mph winds out of the NE, the water level was measured on the lake side of the Outfall Canal Tide Gates at the top of first support (south end on the lake side) for the concrete walkway. The distance from the top to the water level was 3' 11".

**On March 26<sup>th</sup>**, on a day with 10-15 mph winds out of the south, the water level was measured on the lake side of the Outfall Canal Tide Gates at 4'4". The lake was also measured on the top of the concrete tide gate abutment (one with stainless steel bolt in top) at Lake Landing and had a height of 3' above the water. The bolt, as determined by FHWA Surveyors working on Lake Landing Road, is at an elevation of 2.137' above sea level. Therefore, the water level in the lake is at an elevation of -.863 (if wind tide effect is minimal). This would also mean that the top of the abutment at Outfall Canal is 3.47' above sea level.

**On March 27<sup>th</sup>**, on a day with 0-2 mph winds out of the west, the water level was measured on the lake side of the Outfall Canal Tide Gates at 4'3". The lake was also measured on the top of the concrete tide gate abutment (one with stainless steel bolt in top) at Lake Landing and had a height of 3' above the water. The "FHWA bolt (benchmark)", at Lake Landing is 2.137' above sea level. Therefore, the water level in the lake is at an elevation of -.863. This means that the top of the abutment at Outfall Canal is 3.387' above sea level.

At the southernmost culvert on the Hwy 94 Causeway, there is a pipe opening (comes from the old eel plant) on the west and south wing-wall of the culvert. Mark Carawan states that when the lake level is at the middle of the culvert that you can travel most of the lake with a boat and motor and have little problem with hitting bottom. The middle of the pipe was measured and is currently 1' above the level of the lake. Thus, a lake elevation of .137' above sea level would allow fairly good use of the lake by boaters.

In early Dec. of 2007 the lake elevation was at an elevation of -1.03 feet below (4'5" below the top of the Outfall Canal Control Structure abutment) sea level and the refuge waterfowl hunt was postponed until water levels improved. In late Dec. rains raised the lake level 4" which was enough to allow the hunt to resume, though days with a strong south wind were still marginal for hunting. The lake level necessary to allow the refuge waterfowl hunt is an elevation of -.7' below sea level.

I visited with "Wild Bill", a local fishing enthusiast, regarding lake levels necessary for adequate bass spawning and fishing access. We looked at his elevation mark at Rose Bay Canal, which is the top of the board where the ramp starts. The water level was 12" below what he believed was an adequate level. He said that he considered another 5" higher to be "high" for the lake but not so high that it would cause flooding problems. He believes that at a minimum the boards in the structures should be set at 10" above the current level. These measurements compared to sea level (assuming that there is no wind tide) would be .137' above sea level. Another 5" to create a high lake would be .55' above sea level. Wild Bill recommends boards at an elevation of .03' below sea level.

Based on the above discussion I believe a Lake elevation of .137' above sea level would be adequate for fishing needs. This is 1' higher than current levels. The main question is do we recommend installing boards at this level and when this level is reached or when the lake is ½' higher than this level.

**On April 27<sup>th</sup>**, on a day with 0-2 mph winds out of the southwest, the water level was measured on the lake side of the Outfall Canal Tide Gates at 4'5". Therefore, the water level in the lake is at an elevation of -1.03.

Figure 1. Lake Mattamuskeet water level information and management proposal.

Estimated average winter water level = 8" above Sea Level

Proposed elevation of boards in Lake Landing & Waupoppin Water Control Structures = 6" above sea level -to be placed when lake is at sea level.

Proposed lake level to REMOVE boards in Lake Landing & Waupoppin Water Control Structures = 4" above Sea Level

Minimum lake level needed to allow fishing boats to travel most of lake = 2" above Sea Level.

(estimated average summer water level)

Sea Level      Proposed lake level to PLACE boards in Lake Landing & Waupoppin Water Control Structures - boards to be placed to elevation of 6" above sea level.

Minimum lake level needed to allow refuge waterfowl hunts= 8" below sea level

Recent Low Lake Level (4/27/09) = 12" below Sea Level

Notes: Water Control Structure Info- Waupoppin(7), Lake Landing(6), Outfall(10), and Rose Bay(3) = 26 total gate openings. 6 gate openings have stoplogs/weirs in them and one is non operational. Waupoppin has 5 and Lake Landing has 3 operational tide gates.

**Hyde County Board of Commissioners  
AGENDA ITEM SUMMARY SHEET**

**Meeting Date:** August 5, 2013  
**Presenter:** Manager Bill Rich  
**Attachment:** Yes

**ITEM TITLE:** APPOINTMENT – MAINLAND OCCUPANCY TAX BOARD

**SUMMARY:** At its regularly scheduled meeting on July 1, 2013 the Board of Commissioners received notification of Mr. Bill Lawrence's resignation from the Hyde County Mainland Occupancy Tax Board.

Mainland Occupancy Tax Board Chair Donna Spencer is aware of the resignation and will notify Commissioners of a nominee for appointment.

**RECOMMEND:** Appointment.

Motion Made By: ☐ Barry Swindell  
☐ Dick Tunnell  
☐ Anson Byrd  
☐ John Fletcher  
☐ Earl Pugh, Jr.

Motion Seconded By: ☐ Barry Swindell  
☐ Dick Tunnell  
☐ Anson Byrd  
☐ John Fletcher  
☐ Earl Pugh, Jr.

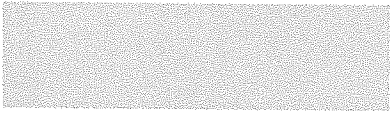
Vote: ☐ Barry Swindell  
☐ Dick Tunnell  
☐ Anson Byrd  
☐ John Fletcher  
☐ Earl Pugh, Jr.

## HYDE COUNTY MAINLAND OCCUPANCY TAX BOARD

### 2013 ROSTER

Scheduled Meeting are on: \_\_\_\_\_

On June 4, 2012, the Hyde County Board of Commissioner moved that per Hyde County Ordinance 38-24 - Advisory Committee to designate that committee appointments be made at or before the 2nd meeting in July of each fiscal year.

<u>Township</u>		<u>Length of Term</u>	<u>Appointed</u>	<u>Appointed</u>	<u>Expires</u>
<b>Swan Quarter</b>	Donna Spencer, Chairman P.O. Box 65 Swan Quarter, NC 27885 252-926-2021 252-926-7481 <a href="mailto:dspencer@agcarolina.com">dspencer@agcarolina.com</a>			9/4/2012	
	Lorenza Farrow 1335 Main Street Swan Quarter, N. C. 27885 252-926-8551-home	no expiration replaced Charles Green		9/4/2012	
<b>Lake Landing</b>	Wanda Jennette 595 Lazy Lane Engelhard, NC 27824 252-925-1461			9/4/2012	
<b>Fairfield</b>	Lamar Spencer Mary S. Spencer 6491 NC 94 Fairfield, N. C. 27826 252-926-1223-home	no expiration no expiration Lamar replaced Mary Spencer Mary replaced Rosalyn Barnard	6/15/2009	4/1/2013 9/4/2012 (resigned 03-12-2013)	
	Glenn Gibbs 8359 North Lake Road Fairfield, N. C. 27826 252-925-1009	no expiration	original member		
<b>Currituck</b>					
	Bill Lawrence 201 Lawrence Lane Seranton, N. C. 27875 252-926-7401-home	no expiration	9/5/2006	9/4/2012 (resigned 07-01-2013)	
<b>Lake Landing</b>	Mark Carawan, Chairman 520 NC 94 Swan Quarter, N. C. 27885 252-926-2008-home <a href="mailto:carawans@carawans.com">carawans@carawans.com</a>	no expiration	original member		
<b>Volunteer</b>	Lisa Carawan-Secretary 520 NC 94 Swan Quarter, N. C. 27885 252-926-2008-home <a href="mailto:carawans@carawans.com">carawans@carawans.com</a>	no expiration			

**Hyde County Board of Commissioners  
AGENDA ITEM SUMMARY SHEET**

**Meeting Date:** August 5, 2013  
**Presenter:** Manager Bill Rich  
**Attachment:** Yes

**ITEM TITLE:** APPOINTMENT – HYDE COUNTY ABC BOARD

**SUMMARY:** At its regularly scheduled meeting on July 1, 2013 the Board of Commissioners re-appointed Glenda B. Williams and appointed Meredith Nicholson to serve on the Hyde County ABC Board.

Commissioner Fletcher will nominate one Ocracoke citizen to serve on the ABC Board.

Term lengths will be assigned.

**RECOMMEND:** Discussion and approval.

Motion Made By: ☐ Barry Swindell  
☐ Dick Tunnell  
☐ Anson Byrd  
☐ John Fletcher  
☐ Earl Pugh, Jr.

Motion Seconded By: ☐ Barry Swindell  
☐ Dick Tunnell  
☐ Anson Byrd  
☐ John Fletcher  
☐ Earl Pugh, Jr.

Vote: ☐ Barry Swindell  
☐ Dick Tunnell  
☐ Anson Byrd  
☐ John Fletcher  
☐ Earl Pugh, Jr.

# HYDE COUNTY ABC BOARD

2013 Board of Directors

Scheduled meeting are on: 3rd Thursday @ 6:00 pm

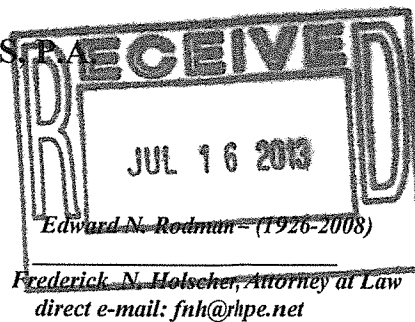
	Appointed	Term Length	Expires	Re-Appointed	Term Length	Expires
Meredith M. Nicholson 275 North Lake Road Fairfield, NC 27826 252-926-0099 - home 252-542-9033 - cell <a href="mailto:mhmoonnn@yahoo.com">mhmoonnn@yahoo.com</a>	7/1/2013					
Glenda B. Williams 3100 Hodges Road Scranton, NC 27875 252-926-2855 - home 252-945-2428 - cell	2/6/2012 to complete Sharon Gibbs' term	2 years ?	5/2/2013	7/1/2013		
Gary Davis, CPA Finance Officer	6/---/2013					
Vicki Gibbs, General Manager 252-926-6991 - Mainland ABC Store						
?????? Ocracoke, NC 27960						
Chairman — Kieth Parker-Lowe PO Box 371 381 Irvin Garrish Highway Ocracoke, NC 27960 252-928-9967 home 252-921-0004 cell <a href="mailto:keith.parker-lowee@tylertech.com">keith.parker-lowee@tylertech.com</a>	3/21/2011	1-year	3/21/2012 5/2/2012			
Don Bachman P.O. Box 252 Ocracoke, NC 27960 252-928-9701 home 252-943-1541 cell <a href="mailto:jdarm1947@embarqmail.com">jdarm1947@embarqmail.com</a>	5/2/2011	1-year	5/2/2013			5/15/2014
Jerry Armstrong 22 Canal Street Fairfield, NC 27826	5/16/2011	3 years				

RODMAN, HOLSCHER, PECK, & EDWARDS, P.A.

ATTORNEYS AT LAW  
320 North Market Street  
Post Office Box 1747  
WASHINGTON, NORTH CAROLINA 27889

Frederick N. Holscher  
R. Brantley Peck, Jr.  
Franz F. Holscher  
Charles C. Edwards, Jr.

Telephone (252) 946-3122  
Fax (252) 946-3125



July 15, 2013

Mr. Bill Rich, County Manager  
County of Hyde  
PO Box 188  
Swan Quarter, NC 27885

Re: Dual Office Holding

Our File No.: 13-85-21531

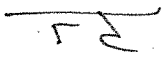
Dear Bill:

In connection with the above, at the last commissioner's meeting I was asked a question as to whether or not a County Commissioner could also serve on the Hyde County ABC Board. Mr. Fletcher indicated that he believed that a person could hold one elective office and one appointive office at the same time. My research indicates that Mr. Fletcher is absolutely correct in that should a Commissioner want to serve on the ABC Board, that would be fine as long as he was appointed by the other Commissioners.

If you should have any further questions regarding this issue, please do not hesitate to call.

Yours very truly,

RODMAN, HOLSCHER, PECK  
& EDWARDS, P.A.

  
Frederick N. Holscher

FNH:hw